

NO. 82089-9

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL E. PETERSON,

Petitioner.

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STATE OF WASHINGTON
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SUPPLEMENTAL BRIEF OF RESPONDENT

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I. ISSUE

Does the sex offender registration statute, RCW 9A.44.130, establish “alternative means” or “alternative definitions”?

II. STATEMENT OF THE CASE

The facts are set out in the Brief of Respondent.

III. ARGUMENT

A. “ALTERNATIVE MEANS” STATUTES ARE THOSE THAT SPECIFICALLY DEFINE MULTIPLE ACTS AS CONSTITUTING THE CRIME.

The evidence in this case overwhelmingly showed that the defendant moved from his registered residence without providing timely notice to the Sheriff. RP 22, 45, 63-65. The defendant argues, however, that the evidence was insufficient to prove whether he moved to a new residence or became homeless. Petition for Review at 6; but see Brief of Respondent at 8 (arguing that the evidence justified an inference that the defendant became homeless). The defendant characterizes these as “alternative means” of committing the offense of failure to register. Absent proof of the means by which he committed the offense, he claims that he cannot be convicted. Petition for Review at 9-10.

The Court of Appeals held that the subsections of the statute establish definitions, not alternative means. State v. Peterson, 145

Wn. App. 672, 678 ¶ 12, 186 P.3d 1179 (2008). “Alternative means” analysis does not apply when a single statutory means can have multiple possible definitions. State v. Linehan, 147 Wn.2d 638, 646-48, 56 P.3d 542 (2002). This court must therefore determine whether RCW 9A.44.130 establishes alternative means or alternative definitions.

Alternative means crimes are ones that provide that the proscribed criminal conduct may be proved in a variety of ways. As a general rule, such crimes are set forth in a statute stating a single offense, under which are set forth more than one means by which the offense may be committed.

State v. Smith, 159 Wn.2d 778, 784, 154 P.3d 873 (2007).

As an example of an “alternative means” crimes, Smith points to first degree assault:

A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or

(c) Assaults another and inflicts great bodily harm.

RCW 9A.36.011(1)(c).

This statute sets out three subdivisions defining distinct acts. Each of these constitutes a crime. The statute specifically states that a person is guilty of assault in the first degree if he or she commits the acts defined in one of the subdivisions, with the intent specified in the introductory paragraph. Consequently, this statute defines alternative means of committing the crime.

Another example of an "alternative means" crime is first degree rape. State v. Whitney, 108 Wn.2d 506, 510-511, 739 P.2d 1150 (1987). That statute is structured in a manner similar to the first degree assault statute:

A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

- (a) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or
- (b) Kidnaps the victim; or
- (c) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or
- (d) Feloniously enters into the building or vehicle where the victim is situated.

RCW 9A.44.040(1)(a). Again, this statute contains subdivisions defining distinct acts. It provides that any one of these acts

constitutes the crime, if committed under the circumstances specified in the introductory paragraph.

An example of a crime that does *not* involve alternative means is second degree extortion. State v. Garvin, 28 Wn. App. 82, 84-85, 621 P.2d 215 (1980), review denied, 95 Wn.2d 1017 (1981); see Linehan, 147 Wn.2d at 646. That statute defines only a single act:

A person is guilty of extortion in the second degree if he or she commits extortion by means of a wrongful threat as defined in RCW 9A.04.110(25)(d) through (j).¹

RCW 9A.56.130(1).

This statute cross-references a second statute, which sets out seven applicable different definitions of a "threat":

"Threat" means to communicate, directly or indirectly, the intent:

...

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

¹ Because of subsequent amendments to RCW 9A.04.110, this cross-reference is incorrect. The definition of "threat" is now contained in RCW 9A.04.110(27).

(f) – (j) [five other definitions].

RCW 9A.04.110(27). A person can commit extortion by making a threat that fits any one of these definitions. Nonetheless, these definitions do not constitute “alternative means.” Garvin, 28 Wn. App. at 84-85.

Hypothetically, the Legislature could have written the extortion statute in a manner that established alternative means.

Suppose the statute read as follows:

A person is guilty of the [hypothetical] crime of extortion if he or she commits extortion by communicating, directly or indirectly, the intent:

(a) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(b) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(c) – (g) [five other definitions].

This hypothetical statute is substantively identical to the actual statute. It integrates the alternative definitions of “threat” into the extortion statute, as distinct acts constituting the crime. Because of the different structure, however, this statute would have a different effect. Unlike the actual statute, this hypothetical statute sets out several distinct acts, each of which is defined as constituting a crime. The structure is thus identical to the assault

and rape statutes involved in Smith and Whitney. Like those statutes, the hypothetical extortion statute would define “alternative means.” The “alternative means” analysis thus depends on the manner in which the Legislature chose to structure the statute.

B. RCW 9A.44.130 DEFINES ONLY ONE ACT THAT CONSTITUTES THE CRIME OF FAILING TO REGISTER AS A SEX OFFENDER.

The structure of RCW 9A.44.130 does not resemble those of “alternative means” statutes.² That statute consists of 11 subsections. Subsection (1) specifies what individuals are required to register. Subsection (2) disclaims a grant of power to public safety departments of institutions of higher education. Subsection (3) sets out the information that a person must provide when registering. Subsection (4) specifies deadlines for registration. It has subdivisions dealing with different types of custodial status and residence. Subdivision (5) establishes registration requirements for persons who change their residence. Subdivision (6) establishes requirements for persons who lack a fixed residence. Subsection (7) establishes requirements for persons who apply for a change of

² The relevant version of the statute was enacted by Laws of 2005, ch. 215, § 1. The full text is set out in the appendix. This version was in effect from July 27, 2003 to September 1, 2006. The crime in the present case was committed in November, 2005. 1 CP 41.

name. Subsection (8) specifies duties of the county sheriff.

Subsection (9) defines terms used in the statute.

Finally, subsection (10) defines the crime of failure to register as a sex offender:

A person who knowingly fails to register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense. . . . If the crime was other than a felony ..., violation of this section is a gross misdemeanor.

Subsection (11) defines the crime of failure to register as a kidnapping offender. It is identical to subsection (10), except that it says "kidnapping offense" instead of "sex offense."

This statute defines only two acts as constituting a crime. Under subsection (10), a person commits a crime when he "fails to register with the county sheriff ... as required by this section" following conviction for a sex offense. Subsection (11) contains an identical provision for kidnapping offenses. The remaining provisions of the statute do not define crimes. Rather, they define the circumstances, time, and manner that registration is "required by this section."

As with the hypothetical extortion statute, the Legislature *could have* written the "failure to register" statute in a manner that would have created alternative means:

A person is guilty of the [hypothetical] crime of failure to register as a sex or kidnapping offender if, being required to register pursuant to this section, he or she:

(a) Changes his or her residence address within the same county and does not send written notice of the change of address to the county sheriff within seventy-two hours of moving; or

(b) Moves to a new county and does not send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered; or

(c) Ceases to have a fixed residence and does not provide written notice to the sheriff of the county where he or she last registered within fourth-eight hours excluding weekends and holidays after ceasing to have a fixed residence.

These hypothetical provisions are parallel to the actual requirements of RCW 9A.44.130(5)(a) and (6)(a). Unlike the actual statute, these provisions set out distinct acts, each of which is defined as constituting the crime. This hypothetical statute would therefore definitive alternative means. But the Legislature did not structure the statute this way. Instead, it structured the statute to provide only two means of committing the crime, with the other provisions being definitional. The actual statute does not provide

for alternative means (beyond the two alternatives for sex offenders and kidnapping offenders).

C. THE SEX OFFENDER REGISTRATION STATUTE SHOULD NOT BE INTERPRETED IN A MANNER THAT FRUSTRATES ITS PURPOSE.

The interpretation of this statute should not take place in a vacuum. The court's primary objective in interpreting a statute is to ascertain and carry out the Legislature's purpose. Fraternal Order of Eagles, Tenino Aerie No. 564 v. Grand Aerie of Fraternal Order of Eagles, 148 Wn.2d 224, 239, 59 P.2d 655 (2002). The "rule of lenity" only applies "when, after consulting traditional canons of statutory construction, we are left with an ambiguous statute." United States v. Hayes, ___ U.S. ___, 129 S. Ct. 1079, 1089, 172 L. Ed. 2d 816 (2009). The rule does not apply if it defeats the intent of the Legislature. In re Charles, 135 Wn.2d 239, 250 n. 4, 955 P.2d 798 (1998).

The purpose of the sex offender registration statute is to provide law enforcement agencies with the information needed to protect communities against sex offenders. State v. Heiskell, 129 Wn.2d 113, 117, 916 P.2d 366 (1996); Laws of 1990, ch. 3, § 401. As pointed out in the Brief of Respondent, the defendant's proposed interpretation would frustrate this purpose. Brief of

Respondent at 6-7. A sex offender's success in concealing his location would prevent his prosecution for failure to register. No rational legislature would enact such a statute. This court should not interpret the statute so as to produce this absurd result.

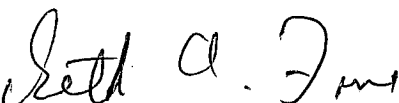
The evidence in the present case overwhelmingly showed that the defendant had violated the statute by failing to register as required. The State has not challenged the Court of Appeals holding that the information was insufficient. The charge must therefore be dismissed, but the dismissal should be without prejudice.

IV. CONCLUSION

For these reasons, as well as those set out in the State's previous briefs, the decision of the Court of Appeals should be affirmed.

Respectfully submitted on April 2, 2009.

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By: 

SETH A. FINE, WSBA # 10937
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Attorney for Respondent

APPENDIX

RCW 9A.44.130

(as enacted by Laws of 2003, ch. 215, 1)

(1) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person. In addition, any such adult or juvenile: (a) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution; (b) who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or (c) whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution. Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, must notify the county sheriff immediately. The sheriff shall notify the institution's department of public safety and shall provide that department with the same

information provided to a county sheriff under subsection (3) of this section.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.500 upon the public safety department of any public or private institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty- four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this

section and is punishable as provided in subsection (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the

person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) **OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) **OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28,

1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.** Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff

not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of

address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an

offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means:

(i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (9)(b); and

(iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(10) A person who knowingly fails to register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (9)(a) of this section. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(11) A person who knowingly fails to register or who moves within the state without notifying the county sheriff as required by

this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (9)(b) of this section. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.